

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

ACDA-05 SAJ-01 IO-11 SCCT-01 SY-05 /080 W

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FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 2064

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AMEMBASSY MOSCOW

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USMISSION NATO

C O N F I D E N T I A L USBERLIN 0428

E.O.11652: GDS

TAGS: PGOV, PFOR, WB, GW, UR

SUBJECT: SOVIET STATEMENT ON POSSIBLE FEDERAL
PROSECUTION OF LORENZ KIDNAPPERS

REFS:(A) USBERLIN 307, (B) USBERLIN 342,
(C) BONN 3008

1. SUMMARY: ALLIED MISSIONS HAVE AGREED TO DRAFT
ANSWER TO BE MADE TO SOVIET STATEMENT PROTESTING
POSSIBLE FEDERAL PROSECUTION OF LORENZ KIDNAPPERS.

2. FOLLOWING IS TEXT OF RESPONSE (OUR INFORMAL TRANS-
LATION FROM FRENCH) MISSIONS HAVE AGREED TO RECOMMEND
TO EMBASSIES:

BEGIN TEXT: THE ALLIED AUTHORITIES HAVE AUTHORIZED ME
TO MAKE THE FOLLOWING STATMENT IN RESPONSE TO THE
SOVIET STATEMENT OF 12 FEB 1976 TO THE CHAIRMAN
POLITICAL ADVISER.

THE ACTIVIITES OF THE FEDERAL PROSECUTOR REFERRED TO IN
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THE REFERENCED SOVIET STATEMENT PROCEED FROM LEGISLATIVE

TEXTS ADOPTED YEARS AGO BY THE BERLIN LEGISLATURE. IN PARTICULAR THE LAW ON THE REESTABLISHMENT OF JUDICIAL UNITY IN THE FIELD OF COURT ORGANIZATION AND CRIMINAL PROCEDURE OF 1950, AND ARE SUBORDINATED TO ALLIED RIGHTS AND RESPONSIBILITIES. THE FEDERAL PROSECUTOR AND MEMBERS OF HIS OFFICE HAVE FOR MANY YEARS ROUTINELY CARRIED OUT SUCH ACTIVITIES IN THE WESTERN SECTORS. THEY DO NOT, THEREFORE, CONSTITUTE ACTS BY A STATE ORGAN IN THE EXERCISE OF DIRECT STATE AUTHORITY OVER THE WESTERN SECTORS OF BERLIN AND ARE IN NO WAY IN CONTRADICTION TO THE QUADRIPARTITE AGREEMENT OF 3 SEPTEMBER 1971. THE ALLIED AUTHORITIES WOULD RECALL THAT THIS POSITION WAS EXPLAINED TO THE SOVIET AUTHORITIES IN THE COURSE OF THE NEGOTIATIONS PRECEDING THE CONCLUSION OF THE ABOVE MENTIONED QUADRIPARTITE AGREEMENT. THE DEFINITIVE DECISION AS TO WHETHER PROSECUTION AGAINST MEMBERS OF THE CRIMINAL BAND CONCERNED, WHO ARE PRESUMED TO BE THE AUTHORS OF THE KIDNAPPING OF PETER LORENZ AND OF RELATED CRIMINAL ACTIVITIES, IS TO BE BY THE FEDERAL PROSECUTOR OR THE BERLIN PROSECUTOR WILL CONSEQUENTLY BE TAKEN, AS HAS BEEN THE CASE IN THE PAST, IN CONFORMITY WITH THE LEGISLATION IN FORCE IN THE WESTERN SECTORS OF BERLIN AND IN ACCORDANCE WITH THE LEGAL REQUIREMENTS OF THE SPECIFIC CASE. END TEXT.

3. ABOVE TEXT REPLACED TWO ALTERNATIVES CONVEYED IN REF A WHICH HAD BEEN AGREED BY US AND BRITISH MISSIONS ARE AGREED THAT RESPONSE TO SOVIET STATEMENT NEED NOT AWAIT FINAL DECISION ON WHETHER PROSECUTION IS TO BE FEDERAL OR LOCAL, PARTICULARLY IN LIGHT OF RECENT INFORMATION THAT FRG DOES NOT ENVISAGE ANY INDICTMENT FOR MANY MONTHS. GEORGE

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